



FH

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MPA/151916

PRELIMINARY RECITALS

Pursuant to a petition filed September 07, 2013, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Health Care Access and Accountability in regard to Medical Assistance, a hearing was held on October 10, 2013, at Racine, Wisconsin.

The issue for determination is whether denial of a prior authorization for full upper and lower dentures was correct.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: written submission of Dr. Robert Dwyer, DDS
Division of Health Care Access and Accountability
1 West Wilson Street, Room 272
P.O. Box 309
Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Racine County.
2. On August 16, 2013, a prior authorization request was submitted on Petitioner's behalf for full upper and lower (maxillary and mandibular) dentures.
3. In September 2009 the Medicaid program paid for dentures for Petitioner. The Medicaid program denied the current request because Petitioner's current dentures were not five years old.

DISCUSSION

A complete denture can be an MA-covered service. Wis. Stat. §49.46(2)(b)1; Wis. Admin. Code §DHS 107.07(1)(f). However, all complete dentures must receive approval through the prior authorization process before any MA payment can be made. *Id.* §107.07(2)(c)8. All prior authorization requests must pass the twelve generic authorization criteria found at Wis. Admin. Code §DHS 107.02(3)(e). The criterion that was violated by this request was the excessive frequency of service standard:

(e) *Departmental review criteria.* In determining whether to approve or disapprove a request for prior authorization, the department shall consider:

...

4. The frequency of furnishing the service;

...

The Department has developed policy guidelines to assist in the determination of an appropriate interval between replacements of various types of medical equipment. The long-standing policy on the minimum time period between denture replacements is found at *Prior Authorization Guidelines Manual*, p. 124.010-.01:

Limitations:

(051110 and 05120)

- Allowed once per five years

...

Denial Criteria:

1. The recipient's history indicates an upper or lower denture was approved and fabricated within the past five (5) years, and no mitigating circumstances were supplied by the provider warranting the construction of a new denture.

...

Id. A parallel policy standard exists for partial denture replacement. *Id.*, 124.010.02.

Here Petitioner notes that her dentures do not fit well and suspects that her osteoporosis has caused her jaw bones to shrink thus affecting the fit of her dentures. This information was submitted back to the Department's dental consultants for review and they indicate that osteoporosis does not typically cause shrinkage of jaw bone sufficient to cause the fit problem. Further, I note that the prior authorization submission does not provide any detail except to state poor fit and must be replaced.

The new request clearly runs afoul of the five-year policy limitation on replacement. The Department's five-year minimum period for replacement of lost dentures is not inherently unreasonable. The policy does, however, allow for early replacement if mitigating circumstances are documented by the provider. Examples might be are poor adaptation to the current dentures and poor quality of workmanship by the provider of the current dentures. Nonetheless, here there is just not enough clinical supplied by the provider to permit me to ignore the policy.

I will, therefore, uphold the denial in this appeal. Petitioner might ask her dentist to consider filing a new prior authorization request that better addresses the mitigating circumstances.

CONCLUSIONS OF LAW

The Medicaid program correctly denied authorization for dentures because Petitioner received new dentures less than 5 years ago and insufficient mitigating circumstances were documented to support the need for new dentures within the five-year life expectancy.

THEREFORE, it is

ORDERED

That this appeal is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

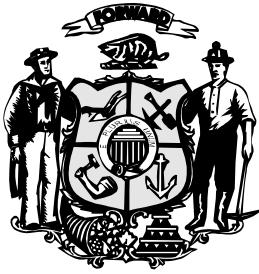
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 18th day of December, 2013

\sDavid D. Fleming
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on December 18, 2013.

Division of Health Care Access And Accountability